

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

rangman

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**FILE:** B-215725**DATE:** July 23, 1984**MATTER OF:** VANHER Corporation**DIGEST:**

1. GAO will not review an agency's determination that a small business is non-responsible since the conclusive authority to decide the responsibility of small businesses is vested in the Small Business Administration.
2. A protest against alleged solicitation improprieties that were apparent prior to bid opening is untimely where the protest was not filed until after that date.

VANHER Corporation protests the contracting officer's determination that the firm is nonresponsible under invitation for bids No. 600-136-84, issued by the Veterans Administration (VA) for heating and cooling coils for the VA Medical Center in Long Beach, California. VANHER advises that the matter currently is before the Small Business Administration under the certificate of competency procedure. VANHER also alleges that the plans and specifications of the invitation were defective.

We will not consider VANHER's responsibility since the Small Business Administration has the authority to make determinations about the responsibility of a small business concern by issuing or declining to issue a certificate of competency. 15 U.S.C. § 637(b)(7) (1982).

VANHER also complains that there were discrepancies between the actual conditions at the site and what the invitation showed. To the extent this is intended as a protest against solicitation improprieties that were apparent to VANHER prior to bid opening, it is untimely.

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Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1984), require that protests based on solicitation improprieties apparent prior to bid opening must be filed before that date. See American KAL Enterprises, Incorporated, B-211938, Jan. 11, 1984, 84-1 CPD ¶ 66.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel

*HE*